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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,136	09/16/2003	Hiroyuki Sekiguchi	03886/0200057-US0	5807
7278	7590	02/07/2005	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257				ZANELLI, MICHAEL J
ART UNIT		PAPER NUMBER		
		3661		

DATE MAILED: 02/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/665,136	SEKIGUCHI, HIROYUKI
	<b>Examiner</b> Michael J. Zanelli	<b>Art Unit</b> 3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 September 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1,3,4,7-9,11-13 and 15-17 is/are allowed.
- 6) Claim(s) 2,6,14 and 19 is/are rejected.
- 7) Claim(s) 5,10,18,20 and 21 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 16 September 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                                              |                                                                                           |
|----------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)               |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/16/03</u> . | 6) <input type="checkbox"/> Other: _____ .                                                |

## **DETAILED ACTION**

1. The application filed 9/16/03 has been examined. The preliminary amendment has been entered. Claims 1-21 are pending.
2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.
3. The IDS filed 9/16/03 has been considered.
4. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
5. The disclosure is objected to because of the following informalities: The specification and claim 5 use the term "evacuation" in a context not usually associated with this term. In normal English usage, the phrase "evacuation of said preceding vehicle" would literally mean the occupants of the vehicle would exit the vehicle. The examiner suggests using a more appropriate term or explicitly defining the term in the specification.
6. Claims 2, 5, 6, 10, 14 and 18-21 are objected to because of the following informalities:
  - A. As per claim 2, the claim refers to "third own traveling path" which implies that there is a first and second own traveling path previously recited. However, the claim previously recites only a first own traveling path.
  - B. As per claim 5, note comments above regarding the use of the term "evacuation".
  - C. As per claims 18-21, the phrase "described in claim   " does not clearly incorporate the specific limitations recited in the referenced claim. The examiner

suggests changing the phrase “described in” to --recited in-- to clearly incorporate all of the limitations recited in the referenced claim.

D. All claims depending from an objected base claim are also objected to as containing the same deficiencies.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 2, 6, 14 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Shirai et al. (US 2001/0053955).

A. As per claim 2, Shirai discloses a vehicle surroundings monitoring apparatus (Fig. 2) which calculates a vehicle's own traveling path and includes: frontal information detecting means (4) and a computer (2) performing the functions of a first own traveling path (“curvature”) calculating means for calculating a first traveling path based on traveling road information (Fig. 3:S500), a third [sic] own traveling path calculating means for calculating a third [sic] traveling path based on traveling conditions of the vehicle (Fig. 3:S300) and final own traveling path calculating means for calculating a final traveling path based on the first and third [sic] traveling paths (Abs).

B. As per claim 6, as above wherein the traveling condition includes at least yaw rate (Fig. 2:14,26; Fig. 3:S300).

C. As per claim 14, as above wherein the traveling paths may be weighted [0019].

D. As per claim 19, as above wherein the vehicle surrounding monitoring apparatus may be part of a vehicle traveling control system (Fig. 2) (i.e., automatic cruise control, collision avoidance, etc.).

9. Claims 1, 3-5, 7-13, 15-18 and 20-21 are distinguishable over the prior art of record.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited documents are of general interest.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Zanelli whose telephone number is (703) 305-9756. The examiner can normally be reached on Monday-Thursday 5:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on (703) 305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/mjz



MICHAEL J. ZANELLI  
PRIMARY EXAMINER